



# **COLOMBIA ADMINISTRATION OF JUSTICE PROGRAM (2001-2006)**

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## **FINAL REPORT**

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**Submitted by:**

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## EXECUTIVE SUMMARY

## EXECUTIVE SUMMARY

Checchi and Company Consulting, Inc. was awarded a five-year contract to implement the USAID-funded Colombia Administration of Justice Program<sup>1</sup> (the Program) in April 2001. The original contract budget totaled \$20,671,409. Through various contract amendments, the contract was extended to June 30, 2006 and the budget was increased to \$28,100,437. Partners of the Americas (POA) and the American Manufacturers Export Group (AMEG) were Checchi's subcontractors. Partners of the Americas was primarily responsible for implementing the Program's civil society activities, including management of the grants program. AMEG was responsible for commodity procurement activities.

In implementing the Program, Checchi developed four discrete components which comprised the focus of activities over the life of the contract: (1) Accusatorial System, (2) Public Defense, (3) Justice Houses and (4) Alternative Dispute Resolution. In strengthening the Accusatorial System, the Program assisted with the transition from a mixed-inquisitorial criminal procedure system to implementation of an orality-based accusatorial system. In the area of Public Defense, Checchi worked to strengthen the defense of indigent and marginalized defendants in criminal cases. Checchi helped the National Justice House Program to develop a program for community-based centers intended to promote citizen access to formal and informal justice mechanisms. The Program, through the ADR component, supported activities intended to promote non-violent, community-based solutions to interpersonal disputes. In addition, there was a fifth, cross-cutting Civil Society activity area, intended to support the four primary programmatic components. This activity area included a grants program to help strengthen civil society, as well as communications activities to promote reform.

The Program's overarching objective was to increase access to justice for the Colombian people. This includes both formal institutional justice mechanisms, as well as informal alternatives. As a result, Checchi sought to work closely with a broad array of counterparts. These counterparts included inter-governmental entities such as the Inter-Institutional Commission for Implementation of the Accusatorial System. The Program's counterparts also included government agencies such as the Ministry of the Interior and Justice and its Access to Justice Division, and the Human Rights Ombudsman and its Public Defender's Office. The Program also worked closely with civil society organizations such as the Colombian Equity Conciliators Association and the *Red de Justicia Colombiana*.

The Administration of Justice Program has been successfully concluded. The Program significantly advanced Colombia's transition to a new accusatory criminal justice system and increased access to justice among the country's marginalized populations. Among its most notable achievements are the following:

- the establishment of 28 courtrooms and four university instructional courtrooms;

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<sup>1</sup> The Administration of Justice Program was also known as the *Programa de Fortalecimiento y Acceso a la Justicia* (PFYAJ).

- the establishment of 23 Justice Houses nationwide, including the first Regional Justice House model;
- the establishment of three Public Defense Pilot Offices and an Appellate Office, providing a new paradigm for the Public Defender's Office (PDO);
- development of an information management system for the PDO;
- publication of accusatorial system training materials (General Manual, Judges' Manual, Public Defender Manual);
- training of over 3,000 public defenders and other defense attorneys, judges, *procuradores*, prosecutors, professors and law students in the accusatorial system;
- certification of over 2,100 equity conciliators by the Ministry of Interior and Justice;
- awarding of \$2.2 million in grants to 67 organizations for 83 projects; and
- multi-media communications campaigns to promote access to justice.

Following is a brief description of the four primary Program components, as well as the cross-cutting civil society activities:

#### **A. ACCUSATORIAL SYSTEM IMPLEMENTATION**

Checchi began to implement the Program at a time that Colombia was developing a vision for the accusatorial justice system. As a result, Checchi actively assisted counterparts in promoting the adversarial process and helped to refine the concept. Checchi provided technical assistance for the drafting of legislative reform, strategic planning, training, infrastructure and logistical support. Initial challenges included cultural resistance to change, continuing inquisitorial influences in the actions of judges and prosecutors, and inadequate counterpart funding and institutional capacity. Checchi worked primarily through the justice sector institutions and their inter-institutional committees. Activities to help create the environment for change included the development of an inter-institutional training plan for judicial operators, support to law schools for the teaching of the accusatorial system, and promotion of the accusatorial system.

Lessons learned include the need for counterpart personnel who can be exclusively dedicated to the reform process, and the advantages of working closely with universities and private attorneys; the continued use of the practical, clinical methodology in law schools is essential. We recommend monitoring and evaluation to make appropriate adjustments to the implementation of the system, expanding work with universities and private defense attorneys, supporting restorative justice, and continued expansion of the accusatorial system to the remaining regions of the country.

## **B. PUBLIC DEFENSE**

At the outset of the Program in 2001, the Public Defender's Office was institutionally very weak, in part due to widespread reliance on the *defensa de oficio* system of requiring lawyers to assume criminal defense cases without remuneration; the PDO suffered from limited budgetary and personnel resources, insufficient legislative and political support, and societal ignorance of the institution's role and importance.

Faced with these challenges, Checchi set out to provide the PDO with a stronger legal and political footing through institutional strengthening, professionalization of its operations, and promotion of its mission to society as a whole. This included the following activities: the development of a pilot office network; implementation of a nationwide training plan, with the production of manuals, modules and trial skills workshops; communications campaigns, including television commercials and print media; strategic planning; and incorporation of universities into the public defense community through an inter-institutional legal clinic and expansion of the law clerk program.

Lessons learned include the need for continued support for public defense as a foundation for legal reform, expansion of staff to include more full-time public defenders and criminologists, continuation of training activities, inclusion of other entities in public defense activities, and the preference for pragmatic planning activities. We recommend creating additional pilot offices and administrative units, and expanding the scope of training and regulatory activities.

## **C. JUSTICE HOUSES**

At the beginning of the Program, the National Justice House Program had been in existence since 1995 and had developed a significant nationwide network of Justice Houses. However, the Justice House Program was burdened by bureaucratic intransigence and a lack of institutional "ownership", as well as a lack of effective coordination. Other deficiencies included a lack of information management and evaluation procedures. This situation led to concerns about sustainability and institutional development, which became priorities for Checchi during Program implementation.

The Program established 23 additional Justice Houses over the life of the contract and worked closely with the Ministry of Interior and Justice to strengthen its capabilities with respect to the Justice Houses. The Program also worked closely with mayoral offices to help ensure sustainability of the national program at the local level by securing funding and infrastructure commitments, as well as in-kind contributions. In an effort to further promote sustainability, the Program worked to help ensure that most Justice Houses were included in municipal development plans. Information management was promoted through quarterly user surveys, annual "census" reports, and an initial information management system in select Justice Houses. Communications were promoted through a quarterly publication, informational pamphlets and guides, and a video library. Finally, the Program worked to help design and inaugurate the first Regional Justice House, which will serve as the model for planned Regional Justice Houses.

Lessons learned include the continued need for institutional strengthening, communications activities, and greater inter-institutional and inter-governmental coordination.

#### **D. ALTERNATIVE DISPUTE RESOLUTION**

At the beginning of the Administration of Justice Program, there was no unifying vision for ADR activities. Checchi therefore worked to promote expansion, sustainability and institutional strengthening with respect to ADR. Expansion efforts included an awareness campaign, commencement of local equity conciliation programs, and coordination with NGOs, universities, and chambers of commerce. These programs provided training so that local community leaders could become equity conciliators. Checchi also sought closer relations between ADR and the judicial branch through establishment of the National Commission for Equity Justice, creation of a pilot center for greater ADR-judicial coordination, and training of judges in ADR techniques. The Program sought a long-term approach for ADR through work with the Colombian Equity Conciliators Association. Finally, in the latter stages of Program implementation, Checchi broadened the scope of activities to include work with justices of the peace.

Lessons learned include the need to work inter-institutionally with a broad array of government counterparts and NGOs. We recommend the following: continued work with the National Commission for Equity Justice, municipal governments, and local leaders; additional strengthening of training processes; and increased support to justices of the peace.

#### **E. CROSS-CUTTING CIVIL SOCIETY ACTIVITIES**

Finally, the primary programmatic efforts described above were supported by cross-cutting civil society activities that included a grants program and communications activities. These activities were implemented primarily by Partners of the Americas, Checchi's subcontractor. The grants program provided grants for activities in ADR, the Justice Houses, the Accusatorial System and Public Defense. Grants were awarded through an open, competitive bidding process. Grantees included academic institutions, foundations, corporations, chambers of commerce, and various other NGOs. Communications activities involved working closely with key counterparts. The Program coordinated with the Inter-Institutional Commission for Implementation of the Accusatorial System and justice sector institutions to promote the new accusatorial system. The Program also worked with the Public Defender's Office to promote indigent criminal defense, as well as with the Ministry of Interior and Justice to promote Justice House and ADR services.



**ACCUSATORIAL SYSTEM IMPLEMENTATION**

## I. ACCUSATORIAL SYSTEM IMPLEMENTATION

### A. INITIAL STATUS

At the beginning of the Administration of Justice Program, no constitutional legislative bill yet existed to reform the Constitution or law to change the criminal procedure system from a mixed system to an accusatorial one. However, in preparation for such a change, the Program began to define possible structural changes in the criminal justice system and its culture, as well as in the system's physical, technological, and operative infrastructures.

Toward this end, an analysis was conducted of the critical points of the Colombian criminal procedure system in order to enable the justice sector institutions to determine potential areas of activity, policies to develop, and goals to achieve.

The situation found at the beginning of the Program with regard to the criminal justice system was characterized by the following:

- Notable gap between the constitutional principles related to the “public due process without unjustified delays,” and the reality of the daily written, ritualistic, and formalistic practices.
- Absence of legal, regulatory, and practical development of the orality-based approach to trials, the method provided in the mixed inquisitorial-accusatorial profile of the criminal trial provided for by the 1992 Constitution.
- Disregard for and indifference to the new, accusatorial system by many justice sector members, and lack of interest in modern trends in trial practice.
- An outmoded treatment of evidence by which the judge received evidence which had already been presented, and where the only possibility of contradiction or examination of the evidence was for the parties, in the evidentiary hearing, to move for admission of additional evidence.
- Excessive weakness of the judge at trial, specifically with regard to control over the intervention of the parties.
- Inconsistent practices and legal interpretations among judges, prosecutors, defense attorneys, and *procuradores*, regarding the procedures for introducing evidence.
- Little use or examination of technical evidence, and failure by justice sector actors to understand that the expert witness cannot assist the defense attorney or other attorneys on the evidence in question and the conclusions reached.
- Lack of procedures or administrative regulations to guarantee the tracking and preservation of evidence, a necessary element of an orality-based system.

- Lack of appropriate hearing rooms or other space for carrying out oral proceedings in various stages of the criminal process, particularly trials.
- Minimal technical capacity to properly collect evidence and present it in orality-based hearings and trials.
- Failure of justice sector training schools to contribute substantively to develop the necessary or desired profile that would enable justice sector attorneys to operate in an adversarial system.
- Misunderstandings among professionals and the public concerning the lack of guarantees of adversarial systems, which tended to create opposition to the use of orality-based techniques.
- Lack of knowledge of orality-based trial techniques among lawyers, including the advantages that these techniques contribute to make the judicial process more transparent, balanced, and effective.
- Failure of universities to prepare attorneys to practice under a mixed-accusatorial system, such as the system established by the 1991 Political Constitution. As a result, the profile of the litigation attorney did not fit with the adversarial system in which the oral process is central.
- Training activities for orality-based trial techniques conducted by international donors did not include private criminal defense attorneys.
- A general lack of understanding by the public on how to fully exercise fundamental rights to public trials, including the right to information and evidence supporting judicial decisions.

## **B. PROGRAM ACTIVITIES**

On the basis of this diagnosis and bearing in mind that criminal procedure reform involves multiple institutions in the justice sector – among them the *Fiscalía General de la Nación*, *Procuraduría General de la República*, *Defensoría del Pueblo* and *Consejo Superior de la Judicatura* – Checchi promoted the creation of the Inter-Institutional Commission for Implementation of the Accusatorial System (Inter-Institutional Commission). The Inter-Institutional Commission was responsible for setting public policy in criminal justice, defining strategic areas for action, and approving the action plan for implementation of the criminal reform which changed the system of investigation and criminal trials. The Inter-Institutional Commission worked in a coordinated manner with the Constitutional Drafting Commission which led the legal reform process.

Beginning with the formulation of the action plan, the Program was dedicated to offering technical assistance and financial support to the Inter-Institutional Commission and its Advisory and Technical Committee (Technical Committee) for execution of the action plan.

The following programs, identified by strategic areas, were carried out in support of USAID priorities and the requirements of the Inter-Institutional Commission and its Technical Committee:

1. *Development of cost studies and operational plans for implementation of the accusatorial system.* In 2005 Checchi supported the Inter-Institutional Commission in the development of studies to determine the incremental costs in implementation of the accusatorial system and in the development of plans for implementation of the system for the first four judicial districts. Similarly, a study was conducted to determine the needs of the judicial police and the incremental costs of its operation in the new accusatorial system. These studies helped the Colombian government determine budgetary allocations for the operation of the accusatorial system and enabled the U.S. government, and other donors, to evaluate resulting funding gaps and assistance requests from counterparts.
2. *Physical and technological infrastructure.* Bearing in mind that the accusatorial system works through public hearings, the Program supported the *Consejo Superior de la Judicatura* as a member of the Inter-Institutional Commission in the design and construction (or refurbishment) of courtrooms, including installation of technical equipment for recording trial proceedings. Checchi assisted with the establishment of 28 courtrooms in 17 cities throughout the country, which were added to the 13 completed by the prior USAID contractor.
3. *Sentence Execution Courts management system.* The Program offered technical and financial support to the *Consejo Superior de la Judicatura* for modernization of selected Sentence Execution courts in Bogotá and Boyacá, designing a system for reporting completed trial sentences without requiring the entire file to be sent to the sentence execution judge. This system enabled rapid consultation by judges of sentencing information, and allowed for an automated system of control and monitoring to ensure completion of the trial sentence by convicted defendants.
4. *Judicial Services Center.* Similarly, regarding the accusatorial system, technical assistance was provided in connection with the *Consejo's* design and adjustment of the "Judicial Services Center," which houses all justice sector entities from the criminal justice sector – police, medical examiner, prosecutor, defense attorney, *procuraduría* and judges – and centralizes administrative support for the judges for the management of different public and private hearings. This effort was intended to help justice sector operators understand that the oral accusatorial system and its hearings implied a significant change in courthouse structure and procedures, since the previous system was designed to manage files and not to support different operators in the execution of their professional duties.
5. *Cultural transformation.* The greatest challenge assumed by the Program was the cultural transformation required to implement changes in judicial customs and paradigms. Several centuries of inquisitorial tradition and a very limited exposure to the mixed inquisitive-accusatorial system as provided in the 1991 Political Constitution were the challenges confronting the Program in this regard. The transformation called for more than the traditional training efforts. It required instruction not only on the technical knowledge of

the accusatorial system based on the codes, but also on the philosophy of the system, and an understanding of which was necessary for its effective functioning. A program was designed which included actions directed toward system operators, law students, and the community in general. Checchi supported the Technical Committee in the development of a comprehensive action plan which included the following activities and assistance:

#### 5.1 Development of an inter-institutional training plan for judicial operators, which included:

- Training needs assessment for the accusatorial system.
- Formation of a network of trainers responsible for replicating throughout the country the training plans for the accusatorial system.
- Development of the inter-institutional plan according to the studies carried out and supported in the trainers network that includes an inter-active methodology to learn by doing.
- Support for execution of the training plan - initially in an inter-institutional form and subsequently in a manner specialized by roles.
- Development of training materials such as manuals for all judicial operators.
- Specialized manuals for judges and defense attorneys, and manuals for conducting training workshops.

#### 5.2 Support to law schools for the teaching of the accusatorial system, which included:

- Integration and formation of a network of trainers, training 145 professors from 48 universities.
- Construction and equipping of four instructional courtrooms, the design of which served as a model for another 20 universities which independently built their own instructional courtrooms.
- Change in the content of the curricula for 38 universities, to include teaching methodologies in the accusatorial system.
- Development of three university competitions based on oral trials, to promote the study of trial techniques in the orality-based accusatorial system. An average of 30 universities participated in each year.
- Development and delivery of teaching materials such as the Professor's Manual, Student's Manual, Complementary Readings, and Manual for Workshops and Mock Trials.

#### 5.3 Promotion and diffusion of the accusatorial system:

The activities to present the changes in the justice system to the Colombian population included:

- Design and production of 14 monthly teleconferences on the accusatorial system.
- Design, development, publication, and distribution of explanatory pamphlets on the system, the role of each institution, and citizen rights. (20,000 distributed by the Program and 100,000 by the *Fiscalía General*)
- Design and production of public service announcements for television, which were broadcast for two years.
- Construction and maintenance of a website which served to publicize progress in implementation of the accusatorial system and published teaching materials.
- Design, production, and dissemination of 24 issues of a monthly electronic bulletin on advances in the accusatorial system and articles of public interest.
- Publication of eight issues of “*El Debate Oral*”, which publicized the Inter-Institutional Commission’s activities, and which disseminated studies, achievements, system evaluations and other relevant information.

#### **C. LESSONS LEARNED**

1. Achievement of the most significant progress in implementation of the reform requires a specialized committee of a permanent nature, rather than a committee with institutional delegates who lack exclusive commitment to reform activities.
2. The process of cultural transformation must involve future attorneys through work with universities.
3. It is necessary to involve private attorneys in training activities on the accusatorial system; otherwise they will be resistant to its successful implementation.
4. The methodology used in the training processes must be directed basically to learning by doing.

#### **D. RECOMMENDATIONS**

1. Conduct a permanent monitoring of the reform utilizing verifiable, factual information, and avoid counter-reforms that undermine the system or restrict constitutional guarantees.
2. Work with associations of criminal defense attorneys in the training of their members.
3. Broaden the coverage of the university program.
4. Design a support program for restorative justice.

**PUBLIC DEFENSE**

## **II. PUBLIC DEFENSE**

### **A. INITIAL STATUS**

The Colombian Public Defender's Office (PDO) was created in 1991 when the new criminal procedure code became effective. The PDO is constitutionally established as part of the *Defensor del Pueblo*, or Human Rights Ombudsman upon which it is dependent for institutional and financial support. At the inception of the Program in 2001, the PDO had a small permanent staff, a limited administrative staff and a part-time training director and assistant. Most significantly, the PDO's public defenders were private attorneys who were contracted by the PDO to work on a part-time basis. There were 1200 such private attorneys who were working in 29 different regions of the country. The PDO at the time covered only 683 of the 1,089 municipalities.

The contract lawyers worked from their own private offices and received little, if any, administrative or other assistance from the PDO. They earned on average about \$800 per month pursuant to contracts that were revocable on an annual basis. In addition to their public defense work, 88% of their caseloads originated from paying clients. Their primary contact with fellow public defenders consisted of meetings of the local "*barras de abogados*" (attorney bars) where the lawyers met for a few hours a week to discuss cases and issues of common interest.

The PDO suffered from inefficient case management and had no effective information processing or case tracking system. Caseloads varied dramatically among the PDO attorneys, and although the attorneys worked part-time, their caseloads often exceeded acceptable standards. They received no substantive initial training and little formal ongoing training, particularly in rural areas. The minimal training they received was highly theoretical and not useful in the daily practice of a public defender.

### **B. PROGRAM ACTIVITIES**

In response to the weak and ineffective PDO that the Program found at the inception of the contract, Checchi helped develop and implement a truly integrated model for public defense services that strived to achieve quality, efficiency and professionalism. The Program's strategy to address the PDO involved (1) institutional strengthening; (2) training; (3) improvement of access to justice; and (4) public education and awareness.

#### **1. Institutional Strengthening**

The Program strengthened administrative systems and developed internal management procedures. Five administrative units for the PDO were created for Bogotá, each one with an administrative coordinator, academic coordinator, 18 public defenders and an investigator. Administrative units were also created in Boyacá, Santander, Medellín, Cali and Valle del Cauca. Following recommendations of the Program, the *Defensor del Pueblo* for the first time named investigators, coordinators and administrative assistants as direct, permanent staff. The Program also assisted in developing a broad, transparent hiring process that was based on the



criteria of experience and merit. The numbers of defenders and investigators was substantially increased, with Bogotá and the *Eje Cafetero* having 476 public defenders and 22 investigators, and the regions of Boyacá, Santander, Valle del Cauca and Medellín having 285 public defenders and 16 investigators.

The Program provided technical assistance and training in the planning and implementation of three pilot offices in order to institutionalize best practices and quality public defense. The pilots were located in Bogotá (opened 2003), Manizales (opened in 2004) and Medellín (opened in 2005). The Program assisted in refurbishing and equipping the PDO offices; a transparent selection process for permanent, professional defenders was designed for staff in each office, and defenders were trained in the skills necessary for the PDO under the accusatorial system. Checchi helped conduct a public education campaign for each pilot office and promoted the services offered to the general public. Beginning in March of 2006, the *Defensoria del Pueblo* assumed full responsibility for the salaries and operational costs of the three pilot offices. The Program also provided support for the opening of a PDO Appellate Office which handles significant cases on appeal. Support for the Appellate Office included modification of infrastructure, providing equipment and instituting a new and efficient plan for the selection of personnel. The *Defensoria del Pueblo* assumed full responsibility for the salaries and costs of the appellate operation in 2006.

Other contributions that the Program made to institutional strengthening included the following:

- Establishment of a law clerk program, including promotional and recruitment campaigns in major universities and assistance with regulations that govern activities of law clerks in the PDO.
- Establishment of the Inter-Institutional Law Clinic that provided supplementary public defense coverage; clinic was funded by Program grants to the *Fundacion Servicio Juridico Popular*.
- 12 agreements signed between the PDO and universities in Bogotá that enabled university participation in the National Public Defender System and offered client services through the Inter-Institutional Legal Clinic
- With Program support, Inter-Institutional Legal Clinic trained over 250 students in the accusatorial system and oral trial techniques.
- Program made recommendations, adopted by *Defensor del Pueblo*, on regulation of law student services provided through Inter-Institutional Legal Clinic.
- 4,029 requests for services accepted by Inter-Institutional Law Clinic by Program's end.

## **2. Training**

Checchi established the National Training Unit for the PDO and developed a network of public defenders who trained other defenders. The Program assisted in formulating a National Training

Plan from 2003-2006 that included eight training modules and was distributed to defenders at the national level. The modules included topics such as the role of precedent, evidentiary argument, investigation techniques, ADR and case management skills. The Program designed and disseminated 2000 copies of the Public Defender Instructional Manual, and updated the Manual in 2006 with jurisprudence from appellate courts.

A total of 35 workshops for training public defenders in the accusatorial system and oral trial techniques were held in 16 districts, with a total of 1,382 National Public Defender System staffers trained. Two senior U.S. public defenders worked as mentors, training a total of 322 employees of the National Public Defender System. They also designed training materials for public defenders, investigators, administrative coordinators and the Appellate Office.

### **3. Improvement in Access to Justice**

The Program provided technical and financial support for the development of an information management system, known as the “*Vision Web*” information system. The system includes ten separate modules for managing the PDO, including receipt and verification of requests for representation, case assignments, defender operations, statistics and information consulting. The Program purchased computers, printers and voice-data cable for the PDO and Units of Immediate Response in Bogotá and the *Eje Cafetero*. The Program trained 140 public defenders and all administrative coordinators in the use of the system. From 2006 the PDO assumed responsibility for implementation of the system in other cities and training of staff in its use and management.

The Program assisted the PDO in drafting and advocacy before the Constitutional Reform Commission during the debates on the Criminal Procedure Code, the Criminal Code and the National Public Defender System law. The Program also recommended various regulatory provisions to the *Defensor del Pueblo*, including regulation of PDO investigators and criminologists, law clinic interns and public defender services.

### **4. Public Education and Awareness**

The Program engaged in a variety of communications campaigns to educate target groups about the PDO and the public defense system. Mass communication campaigns were directed to the civil society to assist it in understanding the PDO’s mission and the citizen’s right to legal representation. Another campaign targeted those arrested and those incarcerated in prison in order for them to understand their rights. A promotional and recruitment campaign was undertaken to promote and motivate law students to undertake clerkships with the PDO. The Program also supported the publication and circulation of the magazine “*La Defensa*,” which was dedicated to covering important indigent criminal defense issues. It was distributed to public defense offices, prosecutor offices, the judicial branch and policy agencies in Colombia and throughout Latin America. Since 2006 the PDO has assumed 100% of the costs related to publication and circulation of the magazine.

## **C. LESSONS LEARNED**

1. Effective public defense has proven to be an essential element to successful implementation of the Colombian accusatorial system. The transition to an accusatorial system makes public defense much more visible and a higher priority for governments; as a result, the need for the new system to be successful can often be understood as justifying a stronger, more effective, public defense system.
2. The Public Defender's Office should have a corps of full-time public defenders who work exclusively with the PDO, supplemented by a group of part-time contract attorneys who can respond to increased demand for services as appropriate.
3. The PDO requires access to a talented pool of criminologists to assist with analysis and expert witness testimony related to technical subjects (e.g., DNA testing, ballistics testing, psychiatry, etc.). However, these analysts do not necessarily have to be PDO employees; they may also be contracted on an as-needed basis from the private sector and academia.
4. The new public defense model has effectively incorporated novel elements, such as pilot offices and administrative units. These specialized public defense units can effectively serve the dual purpose of managing difficult cases and serving as training units for fellow public defenders and justice sector operators outside of the PDO.
5. Although public defenders benefit from specialized trial techniques and accusatorial system training for some issues (e.g. ethics, client relationships, investigations), they also benefit from the opportunity to train inter-institutionally with other justice sector members – particularly in conducting mock trials.
6. Work with the Public Defender's Office is critical, but should be supplemented by work with university legal clinics, NGOs, and other entities dedicated to public defense.

## **D. RECOMMENDATIONS**

1. Expand the Public Defense Pilot Office model of complete public defense assistance, to include additional regions throughout the country.
2. Insist on the continued regulation of the public defender service (e.g., maintaining employment levels).
3. Strengthen the selection processes for public defenders, implementing clerkships and courses, in an effort to create a true public defense career track.
4. Strengthen the training of technical personnel and of the investigative unit of the PDO.
5. Support the operative units at the national level to achieve greater efficiency.

6. Strengthen the Training Unit, creating regional and/or departmental networks in order to provide nationwide coverage
7. Expand the Training Unit's network of trainers.
8. Support the law clerk program and law clinic program.

**JUSTICE HOUSES**

### **III. JUSTICE HOUSES**

#### **A. INITIAL STATUS**

In July 2001, the National Justice Program included a total of 18 Justice Houses, and the 19<sup>th</sup> was being established in Puerto Asís by the then-Ministry of Justice and Law. Establishing new Justice Houses was a task shared between the USAID contractor and the Ministry.

This process followed a pattern of inter-institutional exploration and agreements which set the government apparatus in motion to assume long term commitments. The development of the National Justice House Program was a House-by-House expansion handled within the Ministry at two levels: inter-institutional relations for setting up Justice Houses were managed by an advisor to the Minister, and the day-to-day developments of the existing Justice Houses were managed by the Access to Justice Division. Sustainability was difficult to achieve, due to the Ministry of Justice and Law's rather weak institutional links with the National Planning Department, political changes at the ministerial and municipal levels, an absence of financial support from the Ministry of Justice and Law; in addition, a municipal fiscal reform process ordered by the Ministry of Finance which reduced municipal operations. Annual meetings with Justice House Coordinators were arranged by USAID, and discussion of policy and operational issues by representatives of the Ministry was a principal part of the coordination role played in the National Justice House Program. Statistical information, as well as monitoring and evaluation reports, were very scarce and limited in their coverage. No national system existed to clearly show the role the Justice Houses were playing in the communities where they were operating.

The National Justice House Program also had very limited visibility. This was due in part to the fact that the work was based principally in poor, peripheral neighborhoods, and also due to the low profile of Justice House communications within the Ministry itself. Available publications were limited to a Justice House operational manual published in 2000 and a general National Justice House Program presentation booklet produced in 2001.

#### **B. PROGRAM ACTIVITIES**

23 Justice Houses were established during the course of the Program:

- Manizales - May 2002
- Villavicencio - July 2002
- Armenia - October 2002
- Cartagena, Country - November 2002
- Soacha - December 2002
- Pereira, Cuba - December 2002
- Giradot - December 2002
- Tuluá - December 2002
- Cartago - December 2002
- Bello - February 2003

- Floridablanca - March 2003
- Santa Marta - April 2003
- Barranquilla, Simon Bolivar - June 2003
- Cúcuta - June 2003
- Quibdó - December 2003
- Buga - December 2003
- Chia - December 2003
- Yopal - December 2003
- Montería - January 2005
- Buenaventura - April 2005
- Tunja - August 2005
- Chaparral Regional Justice House - November 2005
- Medellín, Robledo - December 2005
- Valledupar, La Nevada - January 2006

This expansion, undertaken in the five-year period of the Program, doubled the total number of Justice Houses operating in Colombia. In foreseeing this considerable increase, the Program recognized that a major challenge was to ensure the institutional evolution of the National Justice House Program.

Institutional strengthening was managed initially with the Access to Justice Division. Although there was significant turnover in personnel over the five years, there was also an overall increase in the number of staff dedicated to the Justice Houses, with a greater capacity to develop areas such as communications, planning, project design, institutional relations and gender violence issues. And while the Access to Justice Division still requires more personnel and expertise in areas such as information systems, sustainability, statistics and impact monitoring, there is a growing awareness of and commitment to Justice House activities.

An important step forward has been the stronger relationship between the Access to Justice Division and the National Planning Department. A consultant contracted to assist the Access to Justice Division helped write a project for the Central Government Investment Project Bank, which resulted in the Division receiving a budget which enabled it to undertake significant additional activities. The Project Bank allocated the following amounts to the Ministry for Justice House activities:

2003: CO \$219,000,000  
 2005: CO \$420,000,000  
 2006: CO \$440,000,000

Equally important was the strong effort to consolidate a national program by seeking to continue annual conferences proposing, discussing and encouraging new developments with all Justice House Coordinators and other principal institutional staff members. The Program financed these meetings during the first three years of the Program, but the event held in 2005 was carried out with funding from the Access to Justice Division. Another strategy to enhance program identity was the creation of a national Justice House magazine with articles written to share new experiences and project results. This was complemented by a variety of activities undertaken to

celebrate the 10th anniversary of the creation of the first two Justice Houses. Additionally, as the induction course evolved to provide basic training in new Justice House settings, coordinators from nearby Houses were invited to help transfer knowledge and establish supportive relations. Finally, on the inter-institutional level the signing of the new national committee agreement in July 2005 with seven new institutional members, led by the Ministry of the Interior and Justice, renewed commitments and redefined a wider role for this committee.

Sustainability was addressed in part as a matter of ensuring adequate funding. Especially as the new Justice Houses were being built, it became an issue to be discussed with the mayors' offices, with a view to obtaining cost sharing in order to increase building size or provide additional equipment. Municipal and private funding sources were important in building the Justice Houses in Manizales, Buenaventura, Yopal and Tunja. Other municipalities showed their commitment by donating buildings that could be refurbished to accommodate Justice House operations, as in Pereira, Medellín, Valledupar, Cartagena, Bello, Giradot, Ortega, Rioblanco and Ataco. Co-financing of Justice House operations was also assisted by cost studies undertaken with the Soacha and Ciudad Bolívar Justice Houses, as the methodology designed there can now be applied to other Justice Houses.

Municipal fiscal reform caused crises in a number of Justice Houses, as public spending was reduced and limited to certain budget lines in which Justice House needs were not included. Even though the fiscal adjustments have been concluded in many municipalities, there is still a real need for the Ministry to address municipal budget issues with mayors and the Ministry of Finance.

Another major factor in the search for resources and sustainability was the creation of the national planning system for the Justice House Program. With USAID funding, the following results were achieved:

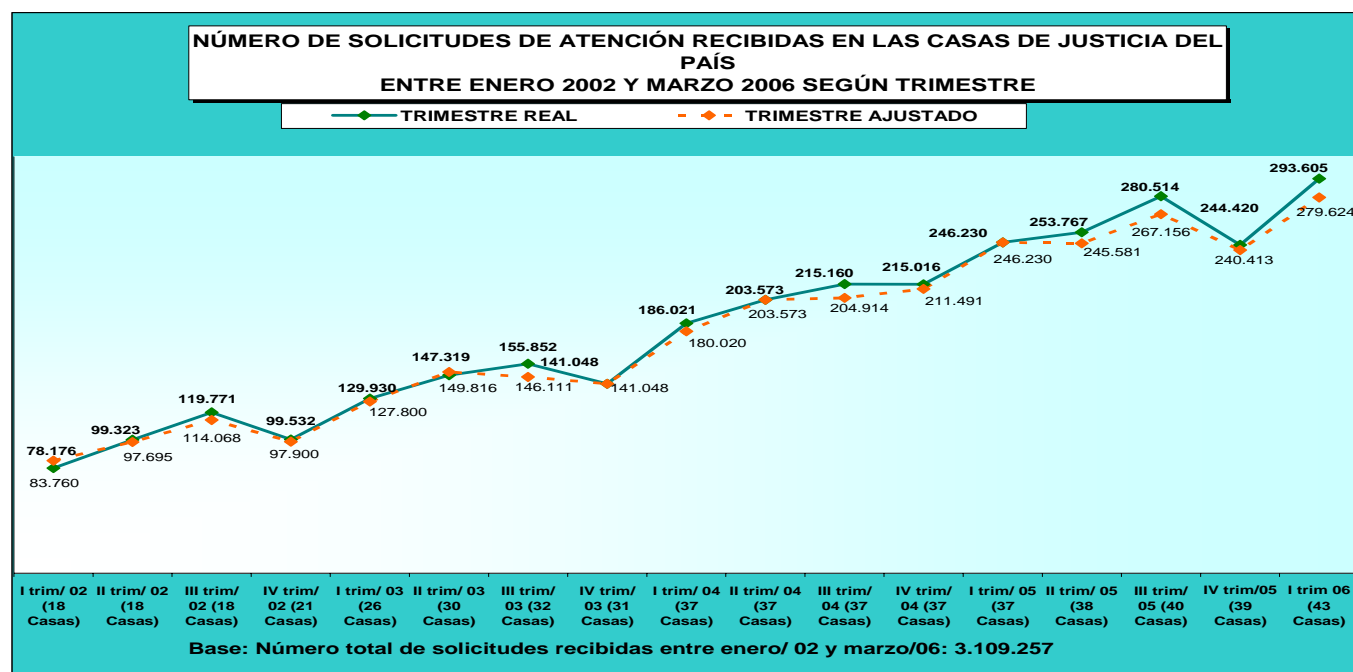
- In 2002, 16 Justice Houses wrote work plans for 2002-2003.
- In 2004, 37 Justice Houses prepared work plans for 2004-2005.
- In 2004, 31 Justice Houses were included in their respective municipal development plans, and four Justice Houses were incorporated into their respective departmental development plans.

In 2005, the Access to Justice Division financed a national planning exercise with the *Escuela Superior de Administración Pública*, and each Justice House had its work plan drawn up according to public sector planning procedures. These work plans have enabled the Justice Houses to have access to greater municipal funding; the Ministry of Interior and Justice, and international donors have also been heavily focused on funding projects included in these plans.

To show clear, periodic results of Justice House work, as well as to complement and fortify the national planning system, Checchi and the Access to Justice Division began discussing how a national information management system might be designed and implemented. Although this computerized information system was not implemented, several preliminary activities were carried out to create an environment in the Justice Houses conducive to eventual implementation. A clear understanding of the purpose and usefulness of Justice House statistics, collected in



quarterly exercises since January 2002, has promoted effective statistics gathering and reporting. Indicators designed by USAID and the Ministry of Interior and Justice have been monitored on a quarterly basis, tracking such information as the total number of requests received in the National Justice House Program.



Timely feedback to each Justice House, the Ministry and USAID, with quarterly and annual reports, promoted visibility of Justice House operations among participating institutions and the public as a whole. While the data gathered to date is a small part of the material needed to fully monitor and evaluate Justice House performance, it is an exemplary start. Furthermore, pilot endeavors to evaluate impact with Justice House users, a simple software package to register Justice House users on a daily basis, and training in the use of indicators, have all helped to lay the groundwork for eventual implementation of a more substantial Justice House information system.

As set forth in the international cooperation agreement, funding for projects to improve Justice House services has covered the majority of the Houses. Beginning with institutional strengthening of Justice House Reception and Information Centers, project support to communities continued with activities to promote greater peaceful coexistence, assist victims of family and sexual violence, address human rights matters affecting local communities, and conduct citizen legal education. The Justice House Program also received project funding to advance legal pluralism by establishing a shared knowledge of different conflict resolution procedures, including an inter-ethnic dialogue and preliminary agreements for joint case management involving the special jurisdiction for indigenous communities, the laws relating to Afro-Colombian communities, and other ethnic groups. A second initiative addressed restorative justice applications both in criminal justice matters and other conflicts presented to Justice Houses. An additional activity was the development of peaceful coexistence skills and initiatives with youth groups working with Justice Houses.

Justice House visibility was enhanced by a very productive publications endeavor. Twelve issues, of 5,000 to 9,000 copies each, of the Justice House magazine *Señales de Convivencia* were produced and distributed to all Justice Houses to support their own communications efforts. One issue was published by the Access to Justice Division, which gradually assumed an increasingly larger role in production of the magazine. Each new Justice House received approximately 500 copies of a pamphlet providing basic information on the Justice House's services, to be circulated among community leaders and local authorities. Justice House work plans were also published, so they could be distributed by each House to their participant organizations and with their funding requests. The Ministry of Interior and Justice produced a guide for governors and mayors considering Justice Houses for their communities, in order to promote program expansion nationwide. A methodology manual to help Justice Houses develop peaceful coexistence plans with local community members was written, based on lessons learned from program implementation in 14 Justice Houses. Community legal education materials for working with community trainers were also produced to give Justice Houses suitable texts to develop citizen education projects covering priority violence and conflict topics. Finally, to complement these publications, a video library consisting of five videos of relevant material was disseminated to each Justice House, for use in the waiting room area and in community training activities.

### **C. LESSONS LEARNED**

Institutional strengthening of an innovative justice reform remains a challenge, notwithstanding attempts to ensure sustainability and public sector identity, together with active participation of municipal and community stakeholders.

Energies and resources spent to show results clearly and continually are well justified and indeed essential to achieving programmatic credibility and generate counterpart confidence.

National, departmental, and municipal entities, along with international donors, have different but highly complementary roles in the National Justice House Program. These roles evolve over time, but each participant is a substantial force for promotion of the Justice House model.

### **D. RECOMMENDATIONS**

Explore prospects for a national program structure which may adopt a network format, along with some form of regional and/or thematic organization between Justice Houses.

Set goals for stronger institutional commitments to provide suitable, stable staff in Justice Houses and improve services offered.

Expand restorative justice applications in Justice Houses and their surrounding communities.

**ALTERNATIVE DISPUTE RESOLUTION**

## IV. ALTERNATIVE DISPUTE RESOLUTION

In Colombia, various mechanisms exist for alternative dispute resolution: equity conciliation, legal conciliation, mediation and arbitration. In addition, the law provides for *jueces de paz* (justices of the peace, who form part of the special *justicia de paz* jurisdiction), though legal experts debate whether this mechanism should technically be called ADR. For purposes of the work developed by USAID/Colombia, the Program concentrated the efforts of its ADR Component on equity conciliation and on *justicia de paz*.

Equity conciliation is an instrument through which parties involved in a conflict seek a solution for it, with the support of a third party, called the “equity conciliator.” Conciliation is legally regulated and is recognized as an alternative form of ADR by Laws 23 of 1991 and 446 of 1998.

### A. INITIAL STATUS

At the beginning of the Program, there was no National Equity Conciliation Program. Specifically, there were no plans, programs, projects, strategies, objectives, or actions designed to achieve a common purpose. There only existed equity conciliators trained according to the criteria of the organizations that supported them, without coordination and without any guidance by the Ministry of Interior and Justice. From 1993 to 2000, 668 equity conciliators were formally named in 70 municipalities in 11 departments.<sup>2</sup> Subsequently, in 2002, Checchi conducted ten regional conferences for equity conciliators,<sup>3</sup> with a striking disclosure that only 150 of the 668 conciliators invited were working, and that there was a “desertion” rate of 78%. The reasons provided for these desertions included: displacement by the armed conflict, absence of technical assistance by the Ministry of Interior and Justice, lack of support by municipal governments, abandonment by NGOs and other supporting institutions, low motivation due to the lack of institutional incentives, and poor promotion of the practice in communities.

Furthermore, the Ministry of Interior and Justice (then, the Ministry of Justice and Law) showed a significant institutional weakness: it lacked personnel for management of a conciliation program, its filing system was in complete disorder, and it appeared that previous efforts to promote the role of conciliators had been abandoned.

### B. PROGRAM ACTIVITIES

To achieve coordination and strengthen the future of equity conciliation, Checchi developed its work based on three basic strategies: expansion, sustainability, and institutional strengthening;

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<sup>2</sup> Rodríguez, María Cristina. *Evaluación de la figura de la Conciliación en Equidad y Jueces de Paz*. MSD-USAID. Bogotá, 2001.

<sup>3</sup> The Program, in cooperation with the Red de Justicia Comunitaria, conducted ten regional meetings of equity conciliators in Medellín, Antioquia, Bucaramanga, San Gil, Urabá, Cúcuta, Ibagué, Cartagena, Bogotá and Cundinamarca, from March through May of 2002. A national event for equity conciliators was then held in June 2002.

all of these were supported by a communications strategy to promote the position of equity conciliator.

## **1. Expansion**

With the purpose of increasing coverage by the National Equity Conciliator Program, Checchi promoted the expansion of the program through an awareness campaign. For the development of this strategy, we worked with civil society organizations, chambers of commerce, universities, and external consultants in different areas of the country. Prior analysis had determined the need for and viability of equity conciliators.

In order to help train and certify new conciliators, a total of 37 equity conciliation programs were conducted. These conciliation projects had five basic stages: community awareness, municipal government awareness, judicial staff awareness, training of community leaders to be equity conciliators, and a special module on sustainability. Thirty-one projects were linked to Justice Houses, six to *centros de convivencia*, and two special projects were conducted in the *Zona Bananera* and on the island of Providencia.

The Program worked with 21 NGOs, seven universities (four private and three public), five chambers of commerce. Four discrete projects were developed through external consultancies. We supported the formal naming of 2,075 equity conciliators in 45 municipalities. Also with Program support, 77 community leaders were trained as community mediators. In addition, we supported the National Justice House Program with training in legal conciliation for 83 Justice House staff members.

## **2. Sustainability**

Sustainability is one of the greatest concerns that arise when supporting these types of projects. For this reason, since the beginning of the Program, we designed our strategy with this purpose in mind.

The judicial branch plays an important role in equity conciliation, for two reasons. First, its members are responsible for selecting equity conciliators from a list of candidates proposed by civil society organizations, following completion of the training process. Second, its members also provide legal authority to the rulings of these equity conciliators. Therefore, the involvement of the judicial branch was an important factor throughout execution of the component. Initially, support was provided to the Judicial Branch Commission for Equity Conciliation, a forum in which other participating entities included: the Supreme Court, the Rodrigo Lara Bonilla Judicial Training School, the Ministry of Interior and Justice, the Bogotá Chamber of Commerce, and equity conciliators. A work plan was developed which facilitated the coordination of joint actions and planning for strengthening of this institution.

This Commission was subsequently strengthened, and became what today is known as the National Commission for Equity Justice, which is comprised of other institutions including the Supreme Court, Ministry of Interior and Justice, Ministry of Education, National Registry, National Planning Department, NGOs, universities, equity conciliators, and *jueces de paz*. This

Commission is divided into three subcommittees -- Implementation, Training, and Inter-Institutional Coordination -- which two years later are actively working and carrying out action plans.

Similarly, with regard to activities for linking the judicial branch to equity conciliation, Checchi supported the creation and functioning of the Equity Conciliation Pilot Center, an annex to the Superior Court of the Medellín Judicial District. This functions as a space for coordination between formal justice and informal justice, assisting the community by offering a larger and more diverse offering of access to justice.

In 2005, the Program promoted the creation of a Documentation Center specializing in MASC (*Métodos Alternativos de Solución de Conflictos*) issues. This space is physically located in the law school of the *Universidad Santo Tomás* in Bogotá; it also has a website at [www.cdmascusta.org.co/](http://www.cdmascusta.org.co/).

The ADR Component also supported the creation of conciliation organizations throughout the country. Today, 23 such organizations exist in different forms: associations, foundations, schools, corporations, etc. These organizations are united under a single organization – the Colombian Equity Conciliators Association.

### **3. Institutional Strengthening**

Given the institutional weakness of the Colombian government as well as some civil society organizations, institutional strengthening is an ongoing challenge. In this context, the Program dedicated its efforts to work with three institutions: Ministry of Interior and Justice, the Colombian Equity Conciliators Association, and the Rodrigo Lara Bonilla Judicial School.

With regard to work with the Ministry of Interior and Justice, Checchi promoted and supported the formulation of a public policy in the area of equity justice; a communication and coordination strategy was established between the Ministry and municipal governments. Furthermore, the Program supported the Ministry in the development of a framework for implementation of equity conciliation. Finally, support was provided for the creation of an equity conciliation information management system.

Checchi cooperated with the Colombian Equity Conciliators Association with the printing and distribution of communications and institutional identification material, such as identification cards, brochures, and banners. The Program additionally supported several workshops for institutional strengthening at the national and regional levels.

Work with the Rodrigo Lara Bonilla Judicial School concentrated on conducting workshops for promoting awareness of equity conciliation among judges. The Program, along with the Judicial School, conducted workshops for “training of trainers” for judges. Seven such workshops were held in the cities of Tuluá (for judges from Tuluá, Buga, Cartago and Buenaventura); Pasto (for judges from Pasto, Popayán, Mocoa and Puerto Asís); Pereira (for judges from Pereira, Manizales, Armenia and Ibagué); Bucaramanga (for judges from Bucaramanga, Barrancabermeja, San Gil, Cúcuta and Aguachica); Bogotá; Barranquilla (for judges from

Barranquilla, Santa Marta, Cienaga, Cartagena, Valledupar and Montería) and the last workshop in Apartadó (for judges from Apartadó, Chigorodó, Mutatá, Turbó, Necoclí, San Juan, San Pedro, Arboletes and Carepa). Additionally, the Program provided training material in the development and printing of the Booklet on Equity Conciliation and Formal Justice.

#### **4. *Justicia de Paz***

The Program conducted supplemental work in the *Jurisdicción de Paz*, which derives its authority from Article 247 of the National Constitution, with regulations found in Law 497 of 1999. This is a special jurisdiction through which the parties request that a third party, the “justice of the peace,” consent to resolve the conflict. During the first stage of the proceedings, the parties attempt to solve the conflict on the basis of equity conciliation, and in the event that they are unable to resolve the situation, the justice of the peace will issue a ruling, which may be appealed before a “justice of the peace for review.” Justices of the Peace are popularly elected, with elections regulated by the National Electoral Council, and are sworn in by the municipality. The Program provided the following support for Justices of the Peace:

- Financial support for the election of justices of the peace in seven municipalities in Valle del Cauca. This work was developed in the municipalities of Jamundí, Tuluá, La Unión, Buenaventura, Obando, La Pradera and Yumbo, from 2001 to 2002.
- Cooperation with the Ministry of Interior and Justice in the Inter-Sectorial Commission of Justices of the Peace. The Program supported the Ministry of Interior and Justice with the financing of a consultant to coordinate this working group, which consisted of the following institutions: Ministry of Interior and Justice, National Planning, Ministry of National Education, *Universidad Nacional*, Bogotá Chamber of Commerce, *Corporación Plural* and the National Electoral Council.
- Development of the study “Evaluative Systematization of Justice of the Peace” published in 2003.
- Support to the National College of Justices of the Peace of Bogotá, for the development of an Equity Justice Public Policy.
- Financing of the celebration of the second anniversary of the election of Justices of the Peace in Bogotá, held in September 2005.
- Financial support to the first National Conference of Justices of the Peace in Cali. This event was conducted in November 2005, with the support of and at the invitation of, *Corporación Plural*, the Cali Mayor’s Office, and the Governor’s Office of Valle del Cauca.
- Support for the training of justices of the peace in the Yopal Justice House. Checchi hired a consultant who conducted a three-day training in the city of Yopal for 15 local justices of the peace.

### **C. LESSONS LEARNED**

The capacity of community leaders for work, commitment, dedication, and effort, is substantial. When communities are offered an option for a different way of life, different manners of resolving conflicts, and different viewpoints, these communities react positively and dedicate themselves fully to these challenges.

Equity conciliation is an important process not only for resolution of conflicts, but also for peaceful coexistence. The majority of equity conciliators achieve acceptance in their communities and encourage improvement in coexistence relations.

The strategy for advancing projects through a grants program was well-conceived, since on the one hand it allowed a healthy competition among various organizations, and on the other, allowed civil society organizations to be strengthened on the local level.

Ongoing meetings between the representatives of the projects facilitated the construction of a conciliation network, which allowed for the collective development of concepts and methodologies for this institution.

Formation of a conciliation committee, in which the Ministry of Interior and Justice, Bogotá Chamber of Commerce, *Red de Justicia Comunitaria*, and Program representatives participated, allowed the institutions interested in this subject to work in a coordinated manner, and have shared means to encourage this institution.

Progress achieved on the Judicial Branch Commission for Equity Conciliation was due in large part to the commitment of the institutions present there, and coordination by the Commission's Technical Secretary.

The strategy for creation of equity conciliator organizations proved important, as these organizations became valid participants in dispute resolution processes.

### **D. RECOMMENDATIONS**

Continue promoting and strengthening the National Equity Justice Commission, in order for it to be a Colombian government institution with capacity to develop and implement policies in this area.

Provide technical assistance to the National Equity Justice Commission to continue refining the draft Public Policy in Equity Justice, until it is officially adopted by the *Consejo Nacional de Política Económica y Social*, guiding future government interventions in the entire ADR field.

The Ministry of Interior and Justice should finalize and distribute the Implementation Framework for Equity Conciliation document, which would facilitate the implementation, accompaniment, and follow-up for this institution throughout the country.



Actively link efforts to introduce and sustain equity conciliation with municipal governments, either through municipal development plans, naming a coordinator for the topic, facilitating physical space for the coordinators, or any other activity tending to promote institutional recognition of the institution.

Implement a strategy which permits the strengthening of equity conciliators within their communities, which will contribute positively to recognition of the role of the conciliator.

Regional Justice Houses should consider working with community mediators, as this will facilitate the legitimacy of the mediators and build community cohesion.

Do not begin conciliator training processes in the near future, until such time as they are consolidated and strengthened, and minimal assurances of sustainability exist for equity conciliators at the national and local levels.

Undertake work with young mediators through different youth-oriented groups, so that they will be responsible for promoting a culture of peaceful conflict resolution.

Provide continuous training to selected justices of the peace, on such matters as concepts of justice and equity, laws, and personal development.

Support the Statistical Analysis Unit of the Supreme Judicial Council in the strengthening of the information management system and monitoring of justices of the peace.

Establish an effective public communications program with the Supreme Judicial Council, with a special component on publicizing justices of the peace.

Conduct a strong communications campaign at the national and local levels where justices of the peace operate, which encourages recognition of their efforts.

**CROSS-CUTTING CIVIL SOCIETY ACTIVITIES**

## V. CROSS-CUTTING CIVIL SOCIETY ACTIVITIES

Partners of the Americas (POA), a subcontractor to Checchi, complemented the technical work in the components described above with activities that promoted the participation of civil society in justice sector reform.

### A. INITIAL STATUS

At the start of the Program's implementation, there were few NGOs working in the justice sector, particularly on the regional and local levels. For example, there were no associations of equity conciliators on either the local or national level. This lack of organizational structure, in the case of conciliators, impeded sustainability. As regards the Justice House program, the links between community-based NGOs and the Justice Houses were weak, failing to take advantage of a natural alliance. In the area of Public Defense, there were no NGOs working directly with the DNDP to provide services to indigent defendants.

### B. PROGRAM ACTIVITIES (GRANTS PROGRAM)

#### Strengthening of Civil Society

Over the course of its five years, the Program awarded 83 grants projects for a total of \$2.2 million. In every case, the recipients of the grants contributed to the projects as well, either through financial donations or other types of contributions. In accordance with the various objectives of the Program, the projects were classified as follows:

Classification	Number of Projects
Proposed by USAID	1
Open national bid process	10
ADR	37
Justice Houses – Coexistence Plans	3
Justice Houses – Handling Sexual Abuse Cases	1
Justice Houses – Ethnic Groups	7
Justice Houses – Other	17
Public Defense	2
Criminal Accusatorial System	3
Support to Ethnic Minorities	2
<b>Total</b>	<b>83</b>

The grants were originally awarded through an open national bid process. In this way, we identified civil society organizations with experience in the area of justice reform. Subsequently, closed bids were held in which typically multiple organizations were invited to submit proposals to an evaluation committee. For the final selection process, a committee comprised of members of the Program and USAID evaluated the proposals and qualifications of the candidates.

In some cases, the same organization managed more than one project. A total of 67 organizations received grants. All of the organizations met the technical requirements of the selection process and fulfilled the objectives stated in their proposals. The organizations can be categorized as follows:

Category	Number of Organizations
Academic and Research Institutes	7
Foundations	18
Corporations	9
Universities	15
Chambers of Commerce	6
Associations	3
Cooperatives	2
Ethnic Organizations	5
NGO networks	1
Public Internacional Organizations	1
<b>Total</b>	<b>67</b>

All projects included stages of follow-up, evaluation, and auditing to review both technical and financial issues. The follow-up process included at least one technical visit and one financial visit to the city where the project was being implemented. In a few cases, it was not possible to conduct a site visit due to safety concerns.

Each grant was generally funded in three installments. Prior to each disbursement, the project would be subject to a technical and financial review, as well as the final approval of the Grants Coordinator and the Coordinator of the corresponding component. Financial reports had to be signed by the accountant or financial advisor of each organization and were required to meet legally acceptable accounting practices in Colombia for the issuing of invoices, payments, receipts, and contracting of third parties through grant resources.

### **C. LESSONS LEARNED (GRANTS PROGRAM)**

1. In Colombia, very few civil society organizations have experience in the area of justice. The Program, through its work with civil society organizations, made significant progress in helping communities identify their conflicts and then identify solutions for solving their problems through the Colombian judicial system.
2. The organizations that handled their funds most efficiently were foundations, corporations, and associations, thanks to their prior experience in establishing contacts and collecting funds within their communities. These types of organizations also tended to maintain the best relations with the donor, as well as with other community organizations.
3. Universities proved to be particularly effective in the implementation of training programs. However, they often struggled with the planning of activities due to their lack of familiarity with the communities.

4. Civil and social organizations preferred to focus their efforts on the reconstruction of communities, and were less inclined to work towards justice reform. These organizations tend to view the judicial system as the responsibility of only the government, instead of recognizing the fundamental rights to justice that should be promoted by communities and individual citizens.
5. In general, Colombian citizens - especially those who belong to communities that have historically been marginalized - distrust the institutions charged with the administration of justice.
6. In recent years, organizations have been created to promote the role of community justice as defined in the Colombian Constitution of 1991, but the armed conflict has limited the sustainability and effectiveness of such organizations.
7. Organizations dedicated to effecting justice reform have trouble securing funds from the government.
8. The government fails to reserve sufficient funding for promoting access to justice within marginalized communities, and as a result, it is difficult to secure even partial government funding for these types of projects.
9. Civil organizations interested in justice reform often choose to pursue broader topics in order to receive more funding.
10. The experience of *Educación Legal* in eight communities showed that educational processes on topics related to justice should be planned in cooperation with the communities and their institutions in order to ensure their legitimacy and future sustainability.
11. The methods employed by *Educación Legal* in Justice House communities were effective in increasing citizens' access to justice.
12. By promoting indigenous justice and ancestral forms of conflict resolution in areas where Justice Houses work with ethnic groups, the Program has facilitated the work of all the entities that comprise the Justice Houses.

#### **D. RECOMMENDATIONS (GRANTS PROGRAM)**

1. Citizens should be informed about justice through a variety of means, including schools, homes and centers for the community at large.
2. The government should create policies that encourage citizens to participate in justice reform.
3. A system should be devised for monitoring justice reforms.

4. Legal education projects in different cities should exchange experiences through a permanent network.
5. The grants selection process should consider the focus and expected results of the project, given that most non-profit organizations in Colombia are not specialized or organized around a single theme.
6. Universities should work very closely with the communities so that a greater number of people can benefit from their training programs.
7. The projects organized with the Justice House communities should involve the participation of all of the entities that comprise the Justice Houses in order to avoid a situation in which particular interests gain greater influence.

#### **E. PROGRAM ACTIVITIES (COMMUNICATIONS ACTIVITIES)**

The communications projects were conducted in connection with the various components of the Program. The goal of the communications team was to raise public awareness regarding the project's efforts to assist in establishing the new criminal accusatorial system and to increase access to justice among marginalized communities. The communications strategy included follow-up evaluations of activities related to publicity.

Institutional actors as well as the general public were identified as targets for communications projects. Institutional actors included justice sector members and employees of the following institutions: the Access to Justice Division of the Ministry of Interior and Justice, the Human Rights Ombudsman's Office, the Attorney General's Office, the National Police, the Supreme Court, the Supreme Judicial Council, and the *Procuraduría General de la Nación*. Non-institutional actors consisted of groups unrelated to the government, including universities (law students as well as professors and administrators, particularly those who work for law schools), bar associations, representatives of civil society organizations, journalists, and the public in general.

Communications activities were further classified into two types: project-wide institutional activities and activities carried out specifically related to the Program's individual components. Institutional activities included design of a Program logo, a promotional folder, website, institutional presentations, and publicity materials. Program activities included work with the four components: Accusatorial System, Public Defense, Justice Houses, and ADR, along with civil society activities.

## 1. Communications Activities by Component

### a. Accusatorial System Communications

In September 2003, a communications group was established by the Technical Committee of the Inter-Institutional Commission for Implementation of the Accusatorial System. The communications group, which would receive support from the Program's communications team, consisted of the press secretaries of the following entities: the Attorney General's Office, the Human Rights Ombudsman's Office, the *Procuraduría General de la Nación*, the Supreme Judicial Council, and the DIJIN Office of the National Police.

The communications group subsequently drafted and put into action a campaign to publicize the criminal justice reforms taking place in Colombia. The group carried out the following activities, among others:

- Trained journalists from the institutions that comprise the Inter-Institutional Commission for Implementation of the Accusatorial System; published a manual for journalists.
- Conducted a public relations campaign that included the planning of events for journalists.
- Published a promotional brochure for the Commission, a general brochure about the accusatorial system, and nine issues of the quarterly newsletter *Debate Oral* (7,000 copies per issue).
- Produced 24 issues of the electronic bi-monthly newsletter *Debate Oral*.
- Broadcast two television public interest announcements on the accusatorial system; held 14 teleconferences.
- Created logos for the Inter-Institutional Commission and the Judicial Service Centers.

### b. Public Defense Communications

The central goal of the communications strategy was to inform Colombians about the role of the public defender. Through a variety of media, the publicity campaign presented an improved image of national public defenders to the general public as highly committed and qualified attorneys capable of offering assistance in criminal cases to indigent defendants. Similarly, the team provided technical information on public defenders to those working within the justice sector.

- Publications: *La Defensa* magazine, Public Defender's Office brochure, Public Defender's Office posters, National Public Defense System brochure, Appeals Office brochure.
- Television: Courtroom instructional video illustrating the public defender in trial, and two public service announcements promoting the Public Defender's Office.

#### c. Justice Houses Communications

Another priority of the communications strategy was to publicize the achievements of the National Justice House Program through a variety of media. By making the public aware of this important program, Checchi aimed to strengthen relations between the Justice Houses and their communities, thereby ensuring the effectiveness of Justice House activities with the community.

- Publications: Twelve issues of the newsletter *Señales de Convivencia* (9,000 copies per issue), promotional brochure for the National Justice House Program, promotional brochures and action plans for each Justice House, and Peaceful Coexistence Plans. In addition, the Program assisted the Access to Justice Division with the design, printing, and distribution of other publications, such as the Guide to Opening Justice Houses and the Justice Houses Manual.
- Television: Documentary entitled “*Un lugar para ser libres*,” a documentary about the ethnic vision of the Justice Houses, and a video library.

#### d. ADR Communications

For the Alternative Dispute Resolution Component, the following communications materials were produced:

- Publications: Eleven editions of the poster “*Tiempo de Conciliación*,” the Guide to Applying Equity Justice, the Guide to Introducing Sustainable ADR in Justice Houses, the Conciliation and Formal Justice Booklet, Equity Conciliation poster and brochure, the National Day in Equity Conciliation brochure and poster, and design and logo for the Colombian Association of Equity Conciliators.
- Television: Documentary on Justice and Memory.
- Radio: Two volumes of radio programs.

#### e. Civil Society Communications

Support was provided to an electronic newsletter, “*Justicia y Sociedad Civil*.” This assistance was provided in response to the need for a publication that would make known the achievements of Colombian civil society organizations in the area of justice. In addition, the purpose of the electronic newsletter is to share the knowledge and experiences gained from the projects carried out by such organizations, to encourage the participation of citizens through the building of networks, and to ensure a consistent and constant process of monitoring the administration of justice in Colombia.

### F. LESSONS LEARNED (COMMUNICATIONS ACTIVITIES)

Difficulties were caused by differences among Colombian counterparts in criteria regarding communication products that were meant to be jointly endorsed by more than one government



entity. This was a recurring problem with the Inter-Institutional Commission, aggravated by the fact that delegates to the Commission often did not seek high level approval for communications in a timely fashion.

From the conception and design of publicity materials, the communications group should work closely with counterpart entities and ensure high-level buy-in at early stages. When working inter-institutionally, it is critical to facilitate consensus among differing institutional perspectives from the start. Effective strategies for monitoring and evaluating each public communication should be established. Responsibility for such follow-up evaluation should ideally be assumed by the counterparts.

All public communications should be designed with the participation of the target communities, using focus group testing. The impact of each communication hinges on successful cooperation with both the communities and the counterparts involved.

Finally, Checchi's experiences revealed the importance of tailoring communications strategies to the reality of each region. Though some publicity materials are appropriate for all parts of the country, the individual character of each region must always be taken into account, especially with regard to each region's cultural and educational levels.

#### **G. RECOMMENDATIONS (COMMUNICATIONS ACTIVITIES)**

A single communications strategy for each component should be defined in order to consolidate the strategies employed by the Program and its partner entities over the past five years.

Publications such as *Señales de Convivencia*, *Tiempo de Conciliación*, and the print and electronic versions of *Debate Oral* should continue to be published.

Regional communications strategies should be designed in order to strengthen projects at the local level.

Support should continue to the institutions that comprise the Inter-Institutional Commission for the Implementation of the Accusatorial System for the following media activities: radio and television announcements, newspaper articles, as well as all of the activities included in the strategic plan created by the Commission's communications group for the next three years.

The Program's experience over the course of the program revealed the need for a single communications strategy for each component and for a general media strategy for publicizing future justice program activities.

## ETHNIC AND GENDER ACTIVITIES

## ANNEX

### ETHNIC AND GENDER ACTIVITIES

#### A. INITIAL STATUS

At the start of the 2001-2006 Administration of Justice Program, there were few, if any, activities implemented by the National Justice House Program that were directed toward ethnic minorities. There was also no inter-disciplinary or inter-institutional approach developed to handle domestic violence cases received by Justice Houses. In the ADR sector, there was no formal National Equity Conciliation Program, and certainly not a high level of awareness among ethnic communities of the conciliator figure. The indigenous jurisdiction created by the constitution of 1991 was not frequently used, and referrals to the indigenous jurisdiction from the ordinary jurisdiction were rare.

#### B. PROGRAM ACTIVITIES

Working together with USAID officials, the Program designed a number of modest interventions across Program components, focused on ethnic minorities as well as women.<sup>1</sup> In a number of Justice Houses where the indigenous or Afro-Colombian population was high, the Program helped municipalities to establish offices that specifically handled cases brought by members of these communities. Chart A attached provides a list of grants and activities focused on ethnic minorities, and includes the resources invested. In several instances, such as in Quibdò, special protocols were drafted and adopted by the Justice Houses. The interaction between the ordinary and indigenous jurisdictions was another prime focus of these activities. In addition, the Program supported the Indigenous Tribunal of Tolima, which proved to be an innovative and successful experiment that will serve as a model for other regions of the country. The Tribunal, operating mostly in Southern Tolima, works closely with the regional office of the Consejo Superior de la Judicatura (CSJ), accepting referrals from the CSJ as well as directly from indigenous communities.

The Justice House Program as a whole benefited large numbers of marginalized and disadvantaged populations. See Chart B for a breakdown of women and members of ethnic minorities served by the Justice Houses.<sup>2</sup> On average, approximately 60% of Justice House users were women. In a special activity, the Program worked with the United Nations Population Fund (UNFPA) to help implement an inter-disciplinary approach to domestic and sexual violence cases in 20 Justice Houses, benefiting primarily women and children who were victims of violence. A key feature of the Program was to give these cases specialized treatment as early as possible in the process, including services provided by psychologists and social workers. The approach was also to handle domestic violence cases with a strong emphasis on inter-institutional cooperation and coordination from the initial stages of the dispute. Such cooperation

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<sup>1</sup> The initiatives were limited by budget constraints and the priority given to the contractual targets and benchmarks.

<sup>2</sup> The distribution by gender is available for the entire duration of the project, while the breakdown by ethnic minority was collected only during the last year.

and coordination was fostered among the many state and municipal entities potentially involved (for example, police, prosecutor's office, Public Defense Office, Institute for Family Welfare, and *Defensor de Familia*, among others).

The Program's ADR component also incorporated an ethnic focus in regions where appropriate. The attached Chart A lists several conciliation projects undertaken by the Program with their locations. One notable example was in Providencia, where the ADR activity was wholly focused on the Raizal population on that island. This was a project not connected to a specific Justice House, and the Program used the Raizal community churches as an institutional foundation for organizing the conciliators. The Raizal community was also an important and integral part of the San Andres Conciliation project. In addition, the process for selection of community leaders to be trained as conciliators consistently took gender into consideration, ensuring that the pool of trainees was balanced. Women community leaders, women heads of households, and representatives of NGOs working on women's issues, were proactively included in these activities.

In the Accusatorial System and Public Defense components, women were well-represented in all activities and trainings. Chart C contains a breakdown by gender of judicial sector training supported by the Program. The Public Defenders working with the indigenous communities in Tolima were supported through grants to the Tribunal and through the Reginal Tolima Justice House project.

### **C. LESSONS LEARNED**

Working with local and regional NGOs is critical for the success of programs aimed at ethnic minorities and disenfranchised women. One challenge is to find appropriate, institutionally strong, organizations capable of project implementation. During the Program's implementation, part of the grants' activity was aimed at institutionally strengthening certain organizations, such as the Indigenous Tribunal of Tolima, or encouraging the formation of new organizations, such as the conciliator associations in Providencia, to sustain project goals in the future. Consensus building among different sectors of the indigenous community, in a given region, was also at times a challenge, and the sooner this process of facilitation could be effected, the greater the opportunities for success.

### **D. RECOMMENDATIONS**

In the 2001-2006 AOJ Program, the focus on ethnic minorities and women was introduced mid-way through the Program. The initial benchmarks and scope did not address this issue. Such an emphasis needs to be incorporated from the inception of the program, so that the project design, and initial action plans, include this important cross-cutting concern. Close coordination with the Ministry of the Interior and Justice's Office of Ethnic Affairs is necessary to ensure consistency across national and donor-supported activities and to ensure the eventual sustainability of such efforts.

### Chart A

#### Colombia Administration of Justice Program (2001-2006)

#### ACTIVITIES FOCUSING ON ETHNIC MINORITIES

	<b>Project</b>	<b>Date</b>	<b>Approximate Cost (USD)</b>
1	Pto Asis Taller, Jurisdicción Indígena	12/03 – 3/04	\$ 2,246
2	Wayuu Project, Riohacha (Jurisdicción Indígena, traditional forms of ADR)	1/03 - 5/06	25,076
3	Tribunal Indígena, Tolima	6/04 – 7/05	15,910
4	Pro Rom, Giron/Bucaramana (project with Rom or Gypsy community)	5/04 - 5/06	15,717
5	Oficina Indígena, Casa de Justicia Mocoa	11/04 – 3/05	2,092
6	Oficina Afro-Colombiano, Casa de Justicia Pto Asis	11/04 – 12/04	529
7	Conciliation Project – San Andres (included work with Raizal community)	3/03 – 10/03	8,800
8	Conciliation Project – Quibdó (Afro-Colombian)	9/04 – 4/05	11,020
9	Indígena Project – Popayan Justice House	3/05 – 5/06	10,804
10	Indígena Project – Pto Asis Justice House	3/05 – 5/06	10,735
11	Indígena Project – Mocoa Justice House	3/05 – 5/06	10,736
12	Raizal Project – San Andres Justice House	5/05 – 5/06	10,231
13	Video on Justice House Ethnic Projects (Oscar Guitierrez)	10/04 – 7/05	10,421
14	Conciliation Project - Buenaventura Justice House	9/05 – 5/06	10,078
15	Quibdó Afro-Colombian Project (Fajardo)	9/05 – 5/06	16,724
16	Conciliation Project – Providencia	10/04 - 5/06	10,595
17	Tribunal Indígena Tolima – 2d Phase, Regional Casa	9/05 – 5/06	22,288
		Total	\$ 194,002

# Chart B

## Colombia Administration of Justice Program (2001-2006)

### JUSTICE HOUSE USERS

#### REQUEST FOR SERVICES, ACCORDING TO GENDER

Gender	2002		2003		2004		2005		Total	
	# of Requests	Percentage	# of Requests	Percentage	# of Requests	Percentage	# of Requests	Percentage	# of Requests	Percentage
Female	238,962	60.2%	337,938	58.9%	477,185	58.2%	608,893	59.4%	1,662,980	59.1%
Male	153,278	38.6%	225,227	39.2%	327,126	39.9%	405,507	39.6%	1,111,139	39.5%
No Information	4,569	1.2%	10,984	1.9%	15,442	1.9%	10,496	1.0%	41,491	1.5%
<b>Total</b>	<b>396,808</b>	<b>100.0%</b>	<b>574,149</b>	<b>100.0%</b>	<b>819,754</b>	<b>100.0%</b>	<b>1,024,896</b>	<b>100.0%</b>	<b>2,815,610</b>	<b>100.0%</b>

#### REQUEST FOR SERVICES, OVERALL, BY ETHNIC MINORITIES

Pertenece a Etnia	1st Quarter 2005		2d Quarter 2005		3d Quarter 2005		4th Quarter 2005		Total for 2005	
	# of Requests	Percentage	# of Requests	Percentage	# of Requests	Percentage	# of Requests	Percentage	# of Requests	Percentage
Yes	13,425	5.5%	45,885	18.1%	39,032	13.9%	30,874	12.9%	129,216	12.7%
No	232,805	94.5%	207,882	81.9%	241,482	86.1%	208,023	87.1%	890,195	87.3%
<b>Total</b>	<b>246,230</b>	<b>100.0%</b>	<b>253,767</b>	<b>100.0%</b>	<b>280,514</b>	<b>100.0%</b>	<b>238,897</b>	<b>100.0%</b>	<b>1,019,411</b>	<b>100.0%</b>

#### REQUEST FOR SERVICES, DISTRIBUTION AMONG ETHNIC MINORITIES

ETNIA	1st Quarter 2005		2d Quarter 2005		3d Quarter 2005		4th Quarter 2005		Total for 2005	
	# of Requests	Percentage	# of Requests	Percentage	# of Requests	Percentage	# of Requests	Percentage	# of Requests	Percentage
Afrocolombiana	8,939	66.6%	37,915	82.6%	32,013	82.0%	27,096	87.8%	105,965	82.0%
Indigena	3,382	25.2%	4,486	9.8%	3,327	8.5%	3,192	10.3%	14,387	11.1%
Raizal	888	6.6%	2,546	5.5%	1,557	4.0%	364	1.2%	5,355	4.1%
Otra	156	1.2%	795	1.7%	1,775	4.5%	108	0.3%	2,834	2.2%
Gitana	54	0.4%	143	0.3%	360	0.9%	114	0.4%	671	0.5%
No Information	6	0.0%	0	0.0%	0	0.0%	0	0.0%	6	0.0%
<b>Total</b>	<b>13,425</b>	<b>100.0%</b>	<b>45,885</b>	<b>100.0%</b>	<b>39,032</b>	<b>100.0%</b>	<b>30,874</b>	<b>100.0%</b>	<b>129,220</b>	<b>100.0%</b>

# Chart C

## Colombia Administration of Justice Program (2001-2006)

### PERSONNEL TRAINED IN ACCUSATORIAL SYSTEM (broken down by gender)

Operator	CY 2001			CY 2002			CY 2003			CY 2004			CY 2005			CY 2006 (to June 30)			Total
	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	
Public Defenders	12	1	13	20	6	26	80	22	102	213	92	305	254	134	388	96	41	137	971
Judges & Magistrates	9	8	17	17	26	43	78	56	134	88	79	167	174	175	349	0	0	0	710
Prosecutors	2	2	4	36	36	72	89	41	130	1	0	1	0	0	0	0	0	0	207
Procuradores	6	5	11	5	1	6	15	7	22	1	1	2	3	2	5	66	34	100	146
Law School Professors	2	1	3	16	5	21	62	13	75	49	19	68	33	7	40	3	3	6	213
Private criminal defense attorneys	0	0	0	0	0	0	0	0	0	0	0	0	22	13	35	59	42	101	136
Others	31	18	49	24	26	50	72	41	113	116	73	189	52	41	93	76	96	172	666
<b>Total</b>	<b>97</b>			<b>218</b>			<b>576</b>			<b>732</b>			<b>910</b>			<b>516</b>			<b>3049</b>

CY = Calendar Year